



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT CORPS OF ENGINEERS
P. O. BOX 4970
JACKSONVILLE, FLORIDA 32232-0019

Regulatory Division

5 February 2007

PUBLIC NOTICE

SOUTH FLORIDA WATER MANAGEMENT DISTRICT
Expedited Permitting Process

TO WHOM IT MAY CONCERN. This district is considering whether to accept funds from the South Florida Water Management District (SFWMD) to provide services to improve the efficiency of processing SFWMD's applications for Department of the Army (DA) permits. The permits would be pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344.) and/or Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) throughout the boundaries of the SFWMD which extend from central Florida to Lake Okeechobee, and from coast to coast, from Fort Myers to Fort Pierce, south through the Everglades to the Florida Keys and Florida Bay. The purpose of this public notice is to describe and solicit comments on procedures designed to ensure funds would not impact impartial decision-making. The funds would expedite the exchange of concerns and information between the U.S. Army Corps of Engineers (Corps), the SFWMD, and other agencies, including initiation of such dialogs prior to the submission of the application and well as expedited permitting of the SFWMD's projects.

Currently the Corps accepts funds from the SFWMD to improve the efficiency of processing the Department of the Army permit applications for accelerated Comprehensive Everglades Restoration Plan (CERP) projects "Acceler8". A public notice dated June 13, 2005, described the proposal in detail and a public notice dated August 15, 2005, informed the public the funds would be accepted.

Under the current process for all water management projects other than Acceler8, the SFWMD generally only learns of concerns or questions after submission of an application, resulting in a delay while information is developed and exchanged and in some cases the proposed project redesigned/modified. Under the expedited permitting process, the Corps would obtain information early in the process and prior to the SFWMD's submission of an application. After submittal of the application (and, when applicable, the end of the public notice comment period) it is expected that this early involvement would result in fewer requests for additional information then under the current process thereby shortening the time between application and the permit decision. The funds will also provide for additional tasks that would facilitate the

analysis of the proposed project such as participation in interagency meetings, dialogue, and close coordination with all parties involved. The permit decision itself would not be affected by the funds and this new process. The Corps' decision whether to issue or deny the permit is and would continue to be based on the analysis of the proposed project, the SFWMD's submittals, comments from the public and other information.

AUTHORITY. The Transportation Equity Act for the 21st Century (TEA-21), June 1998, authorized development of Environmental Streamlining. Florida was selected as a pilot state in the Fall of 1999. Twenty-four agencies agreed by Memorandum of Understanding, signed December 2001, to endorse and implement Florida's Efficient Transportation Decision Making process.

The Water Resources Development Act of 2000 (Public Law 106-541) was signed into law on December 11, 2000. Section 214(a) reads as follows:

(a) IN GENERAL. "In Fiscal Years 2001 through 2003, the Secretary (of the Army), after public notice, may accept and expend funds contributed by non-Federal public entities to expedite the evaluation of permits under the jurisdiction of the Department of the Army."

(b) EFFECT ON PERMITTING. "In carrying out this section, the Secretary shall ensure that the use of funds accepted under subsection (a) will not impact impartial decision-making with respect to permits, either substantively or procedurally."

The Energy and Water Appropriations Bill, H2754 (Public Law 108-137), signed into law on December 1, 2003, states: "Section 114. Section 214(a) of Public Law 106-541 is amended by striking "2003" and inserting "2005".

"The Secretary of the Army has delegated this responsibility to the Chief of Engineers and his authorized representatives, including the Commander of the Jacksonville District". [CECW-OR memo 29Mar04]

The Secretary of the Army has delegated this responsibility to the Chief of Engineers and his authorized representatives, including the Commander of the Jacksonville District.

NON-FEDERAL PUBLIC ENTITY PROVIDING FUNDS. SFWMD, 3301 Gun Club Road, West Palm Beach 33416.

REASON FOR PROVIDING THE FUNDS. The SFWMD is charged with managing and protecting water resources of the region by balancing and improving water quality, flood control, natural systems and water supply. As the local sponsor of the Central and South Florida (C&SF) Project and the regional water management agency, the SFWMD is responsible for operations and maintenance of more than 1,900 miles of canals and levees and hundreds of water control structures ensuring flood damage is minimized and regional water supplies are protected. The SFWMD is leading efforts to restore and protect the South Florida ecosystem including water quality enhancement through state initiatives and as local sponsor for CERP. Efficiency of processing the SFWMD's permit applications is necessary in fulfillment of these important missions and as local sponsor of the C&SF Project and CERP.

HOW ACCEPTANCE OF FUNDS WOULD EXPEDITE THE PERMIT REVIEW PROCESS. This efficiency of processing permit applications will require an intense level of communication, collaboration and coordination not only between the Corps and the SFWMD, but also with other local, state, and federal agencies and Native American Tribes.

WHAT ACTIVITIES THE FUNDS WOULD BE EXPENDED ON.

Funds would be used to reimburse for the Corps' time to review information and provide comments during the planning and preapplication phases, for time spent coordinating and exchanging information with others. After submittal of the permit application, activities would include, but not be limited to: technical writing; site visits; copying; coordination activities; review of application submittals; jurisdictional determinations; wetland and other aquatic resource functional assessments; public notice preparation; preparation of correspondence; preparation of draft decision documents; and meetings with the SFWMD and other agencies. Funds would not be expended for review of project managers' work by supervisors, other elements of the Corps, or other persons in the decision-making chain of command. No enforcement or compliance activities would be paid from the augmenting funds.

PROCEDURES TO ENSURE THAT THE FUNDS WOULD NOT IMPACT IMPARTIAL DECISION-MAKING.

All final permit decisions for cases where these funds are used would be reviewed by at least one level above the decision maker, unless the decision maker is the Commander of the Jacksonville District. For example, the Corps' project manager may prepare the recommendation for the decision, his or her Branch Chief may make the decision, but then the decision would be reviewed by the Division Chief.

All final permit decisions for cases where these funds are used would be made available on the Jacksonville District Regulatory web page.

The Corps would not eliminate any procedures or decisions that would otherwise be required for that type of project and permit application under consideration.

The Corps would comply with all applicable laws and regulations.

Funds would only be expended to expedite the final decision on the permit application. Funds would not be expended for the review of the decision maker's decision. If contracts are used to develop decision documents, such decision documents must be drafts only and be reviewed and adopted by the Corps Regulatory Program employees, before the decision is made.

IMPACTS ON JACKSONVILLE DISTRICT'S REGULATORY PROGRAM AND PERMIT EVALUATIONS NOT SUBSIDIZED BY FUNDS CONTRIBUTED BY SFWMD. The employees and other costs of Jacksonville District's Regulatory Program are funded through the annual Energy and Water Appropriation. Some employees would now be spending some of their time on SFWMD projects. Funds from the SFWMD would pay for the employee costs based on the hours expended and other costs. The funds from the Energy and Water Appropriation previously funding these employees would instead be used to hire additional employees. No impacts on other parts of the program or other applicants are expected. If the SFWMD's funds are expended or are not renewed, their remaining permit applications would be handled like those of any other applicant.

COMMENTS. Comments are welcomed. Following the review of comments received in response to the public notice, the Commander of the Jacksonville District will determine whether or not acceptance and expenditure of the funds as described above is (1) in compliance with Section 214 of the Water Resources Development Act (as amended) and (2) the public interest is better served through cost-

effectiveness, enhanced evaluation capability, streamlined permit processing, or other appropriate justification. A final public notice will be issued regarding the District Commander's decision. If a determination is made to accept the funds and if in the future SFWMD provides additional funding then no new public notice would be issued provided that the purpose remains the same.

Please provide comments in writing to the Commander at the above address within 30 days from the date of this notice.

If you have any questions, you may contact Tori White of this office either by letter, by telephone at 561-472-8888, by e-mail at tori.white@saj02.usace.army.mil, or by fax at 561-682-7219.